

Maine Revised Statutes

Title 38: WATERS AND NAVIGATION

Chapter 17: MAINE REFUSE DISPOSAL DISTRICT ENABLING ACT

§1751. DISTRICT BONDS AND NOTES IN GENERAL

1. Authorization of bonds. Subject to the limitations in subsection 10 and sections 1754 and 1755, any district formed under this chapter may provide by resolution of its board of directors, without district vote, for the borrowing of money and the issuance from time to time of bonds and notes for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the district or any municipality in the district. The district may reimburse any municipality in the district for any such expenses incurred or paid by it; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, constructing, maintaining and operating waste facilities, and making renewals, additions, extensions and improvements to the property or facilities, and covering interest payments during the period of construction and for such period as the directors may determine; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds or notes; [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Financing all or part of a waste facility for a user. The term "user," as used in this section, means one or more persons or entities, other than a district, acting as lessee, purchaser, mortgagor or borrower or contracting party; and [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any combination of these purposes. [1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Bonds may be issued by a district under this chapter as general obligations of the district or as special obligations payable solely from particular funds. The principal, premium and interest on all bonds shall be payable solely from the funds provided for that purpose from revenues. All bonds issued by a district under this chapter shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30-A, section 5701. Bonds may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the district and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter. Except as provided in this subchapter, bonds issued by a district under this chapter do not constitute

a debt or liability of the State or of any municipality encompassed by the district or a pledge of the faith and credit of the State or any such municipality, and a statement to that effect shall be recited on the face of the bonds.

[1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Notes. Any district formed under this chapter may also provide by resolution of its board of directors, without district vote, for the issuance from time to time of:

A. Notes in anticipation of bonds authorized under this chapter; [1983, c. 820, §2 (NEW) .]

B. Notes in anticipation of the revenues to be collected or received in any year; or [1983, c. 820, §2 (NEW) .]

C. Notes in anticipation of the receipt of federal or state grants or other aid. The issuance of these notes shall be governed by the applicable provisions of this chapter relating to the issuance of bonds, provided that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof must mature no later than the expected date, as determined by the board of directors, of receipt of those grants or aid. The board of directors may adjust the maturity date of notes issued in anticipation of federal or state grants or other aid to reflect changes in the expected date of receipt. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issuance of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the note or the interest thereon may not exceed one year. [1983, c. 820, §2 (NEW) .]

Any such district may enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money or to otherwise assist in the financing of projects of the type which that district is authorized to carry out, and to accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the district.

[1983, c. 820, §2 (NEW) .]

3. Maturity; interest; form; temporary bonds. The bonds issued under this chapter shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the board of directors or determined pursuant to a formula approved by the board of directors or by a 3rd party rate-setting agent selected by the board of directors, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds. The board of directors shall determine the form of the bonds, including any interest coupons to be attached, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any financial institution having trust powers within or without the State. Bonds shall be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond shall be a manual signature. Coupons, if any, attached to the bonds shall be executed with the facsimile signature of the officer or officers of the district designated in the resolution. In case any officer, whose signature or facsimile signature appears on any bonds or coupons, ceases to hold that office before the delivery of the bonds, the signature or its facsimile shall nevertheless be valid and sufficient for all purposes, as if he had remained in office until the delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reversion into coupon bonds of any bonds registered as to both principal and interest. The board of directors may sell the bonds in the

manner, either at public or private sale, and for such price as they may determine to be for the best interests of the district. The proceeds of the bonds of each issue shall be used solely for the purpose for which those bonds have been authorized and shall be disbursed in such manner and under such restrictions as the board of directors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds, and any trust agreement securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of directors may deem proper, and these additional bonds shall be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond which is mutilated, destroyed or lost.

[1985, c. 337, §5 (AMD) .]

4. Pledges and covenants, trust agreement. In the discretion of the board of directors of any district, each or any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be any financial institution having trust powers within or without the State.

The resolution of the directors authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the district and any accounts and contract or other rights to receive the revenues or moneys, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district and the proceeds thereof, and may convey or mortgage the waste facilities or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders, including, but not limited to, covenants setting forth the duties of the district and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its waste facilities or any of its other properties; the fixing and revising of rates, tolls, assessments, rents, tipping fees and transportation charges and other charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; the defining of defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of directors may deem reasonable and proper for the security of the bondholders, including means by which the resolution or trust agreement may be amended. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, moneys, rights and proceeds so pledged and thereafter received by the district shall immediately be subject to the lien of the pledge without any physical delivery or segregation thereof or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice thereof.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues and assessments, after providing for the payment of the cost of repair, maintenance and operation and reserves therefor as may be provided in the resolution or trust agreement, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the bonds shall become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys in or to the credit of the fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or

in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

[1983, c. 820, §2 (NEW) .]

5. Trust funds. Notwithstanding any other provision of law, all money set aside for payment of the bonds, or other purposes pursuant to the provisions of any trust agreement securing the bonds, shall be deemed to be trust funds, to be held and applied as provided by the trust agreement; provided that investment or deposit of those funds shall be subject to the provisions applicable to municipal funds under Title 30-A, chapter 223, subchapter III-A. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that any officer to whom, or bank, trust company or other financial institution or fiscal agent to which, money shall be paid shall act as trustee of money and shall hold and apply the same for the purposes hereof, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

[1987, c. 737, Pt. C, §§99, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

6. Remedies. Any holder of bonds issued under this chapter or of any of the coupons appertaining to those bonds, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the district or by any officer of the district, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district, or if applicable, the making of any assessments against member municipalities under section 1756.

[1983, c. 820, §2 (NEW) .]

7. Refunding bonds. Any district formed under this chapter by resolution of its board of directors, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of those bonds, the expenses of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by a trust agreement or resolution securing bonds. The issuance of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the district in respect of the same shall be governed by the applicable provisions of this chapter relating to the issuance of bonds other than refunding bonds.

[1983, c. 820, §2 (NEW) .]

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

[1983, c. 820, §2 (NEW) .]

9. Bonds declared legal investments. Bonds and notes issued by any district under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now, or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities which may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

[1983, c. 820, §2 (NEW) .]

10. Certain bond issues; notice; special meeting; vote. In the event that the directors vote to authorize bonds or notes, for any of the corporate purposes of a refuse disposal district, excluding notes payable within one year, or notes in anticipation of the revenues to be collected or received in any year or notes in anticipation of bonds which have already been authorized in accordance with this chapter, or notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which, singly or in the aggregate included in any one financing, is \$1,000,000 or more, the directors shall provide notice to the general public:

A. Of the proposed bond or note issue and the purposes for which the debt is being incurred; and
[1983, c. 820, §2 (NEW) .]

B. Call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the amount of the debt so authorized. Notice of the proposed bond or note issue, the purposes for which the debt is being issued and the call of the special meeting shall be published at least once in a newspaper having general circulation in the district. [1983, c. 820, §2 (NEW) .]

No debt may be incurred under the vote of the directors until the expiration of 7 full days following the date on which the special district meeting was held. If, prior to the expiration of that period, a petition signed by at least 5%, but not less than 50, of the registered voters of the district is filed with the clerk of the district requesting reference of the vote of the directors to referendum, the clerk of the district shall call and hold a special election of the voters of the district for the purpose of submitting to referendum vote the question of approving the vote of the directors. The vote of the directors shall be suspended until it has received approval by vote of a majority of the voters of the district voting on the question at the special election.

[1983, c. 820, §2 (NEW) .]

11. Negotiated or competitive bidding process. Any notes, bonds or other instruments of indebtedness may be the subject of a negotiated or competitive bidding process, or any other process which may be advantageous to the district, and determination of the process to be used shall be made by and at the discretion of the directors of the district.

[1983, c. 820, §2 (NEW) .]

SECTION HISTORY

1983, c. 820, §2 (NEW). 1985, c. 337, §5 (AMD). 1987, c. 737, §§C99,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD).

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